IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

R.S.A. No. 888 of 2005
Date of decision: February 22,2007

Balbir Singh V. Naresh Kumar and others

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri B.K.Bagri, Advocate, for Shri S.P.Laler,Advocate for the appellant.
Shri J.S.Dahiya, Advocate,for the respondent.

Viney Mittal,J.

Having concurrently lost before the two courts below, plaintiff is in second appeal.

A suit for declaration and for permanent injunction was filed by the plaintiff. It was claimed that he had purchased 7 kanals 11 marlas of land through one sale deed and another 14 marlas of land through another sale deed i.e. a total of 8 kanals and 5 marlas of land from defendant No.3 for an amount of Rs.15,000/-. The plaintiff claimed that he had raised construction in 14 marlas of land and a mutation had been entered in his favour but latter on defendants No.1 and 2 in collusion with revenue authorities had got the mutation of plot No.673 measuring 9 marlas in favour of the plaintiff and with regard to the remaining in their own favour. The said mutation was shown to be entered on the basis of the statement made by the plaintiff but no such statement was ever made by the plaintiff. The plaintiff claimed that he was owner in possession of the entire land.

The defendants admitted that sale deed dated March 21,1985 had been executed in favour of the plaintiff by defendant No.3, Smt.Bhulan but claimed that defendant No.1 and 2 had already

purchased the land in question from Smt. Bhulan vide sale deed dated December 27,1983 and in these circumstances the sale deed in favour of the plaintiff was merely a paper transaction. The defendants also pleaded that Smt. Bhulan could not have sold more than her share in the property in question. The defendants,however, conceded that the plaintiff was owner of 9 marlas of land and had raised construction on his own share. The defendants specifically maintained that the possession of the remaining land which had not yet been partitioned between the parties would be taken only in due course of law.

On appraisal of the evidence available on the record, the trial court found that Smt. Bhulan from whom the plaintiff had purchased the land, could not have sold more than her own share and,therefore, the plaintiff had merely acquired a valid title qua 9 marlas of land to which even the defendants had conceded. It was further held that Smt. Bhulan had no further title to sell the land which the plaintiff had claimed. Consequently, it was held by the trial court that the plaintiff was owner of only 9 marlas of land.

The plaintiff filed an appeal. The appellant court reappraised the entire evidence and affirmed all the findings of fact recorded by the trial court. The appeal of the plaintiff was also dismissed.

Nothing has been shown that the findings recorded by the two Courts below suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

February 22,2007 (Viney Mittal)
sks Judge